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PART-VII

GOVERNMENT OF MEGHALAYA

ORDERS BY THE GOVERNOR

NOTIFICATIONS

Shillong, the 3rd October, 2013.

No.POL.116/2012/Pt.I/112.—The following Notification No.S.O.2001(E), dated 28th June, 2013 issued by the Ministry of Home Affairs, Government of India in the matter of the Hynniewtrep National Liberation Council of Meghalaya is hereby republished for general information.

J. LYNDOH,

Commissioner & Secretary to the Govt. of Meghalaya,
Political Department.

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 28th June, 2013.

S.O.2001(E).—In terms of Section 4 (4) of the Unlawful Activities (Prevention) Act, 1967, the order of the Tribunal presided over by Hon'ble Mr. Justice Sudershan Kumar Misra, Judge, Delhi High Court, to whom a reference was made under Section 4 (1) of the Unlawful Activities (Prevention) Act, 1967 for adjudicating whether or not there is sufficient cause for declaring the Hynniewtrep National Liberation Council (HNLC) organization of Meghalaya as unlawful is published for general information:

[No11011/80/2012-NE.V]
SHAMBHU SINGH, Jt. Secy.

UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL,
NEW DELHI

Reserved on: 7th May, 2013

Date of decision: 14th May, 2013

In the matter of:-

Gazette Notification No. S.O. 2718(E) dated 16th November, 2012 declaring Hynniewtrep National Liberation Council of Meghalaya as Unlawful Association under Section 3(1) of the Unlawful Activities (Prevention) Act, 1967.

CORAM:

HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA

Present:

Mr. Rajceve Mehra, Addl. Solicitor General, Mr. Amrit Pal Singh, Central Government Standing Counsel, Mr. Sumeet Pushkarna, Central Government Standing Counsel with Mr. G. Sridharan, Deputy Secretary and Mr. S.C. Rawat, Section Officer, Ministry of Home Affairs

Mr. Ranjan Mukherjee with Mr. Shantanu Bhowmick, Advocates for the State of Meghalaya.

ORDER

1. In exercise of powers conferred by sub-Section (1) of Section-3 of the Unlawful Activities (Prevention) Act, 1967 (Act No. 37 of 1967) (hereinafter referred to as the 'Act'), vide Notification No. S.O. 2718(E) dated 16th November, 2012, the Central Government declared Hynniewtrep

National Liberation Council of Meghalaya [for short 'HNLC'] as 'Unlawful Association', for a period of two years, with effect from 16.11.2012:

2. The Central Government came to the conclusion that HNLC was an Unlawful Association, inter-alia, on the grounds that HNLC has (i) openly declared as its objective the secession of the State of Meghalaya from the Indian Union; (ii) been employing and engaging in armed means to achieve their objective; (iii) been indulging in acts of intimidation, extortion and looting of civilian population for collection of funds for their organization; (iv) been maintaining links with other insurgent groups of the North Eastern region for carrying out acts of extortion and intimidation; and (v) been maintaining camps, "in neighbouring country", for the purpose of sanctuary and training of their cadres.

3. Exercising the powers conferred by sub-Section (1) of Section-5 of the Act, Ministry of Home Affairs, Government of India, vide Notification No. S.O. 2875(E)

dated 12th December, 2012 constituted this Tribunal for the purpose of adjudicating whether or not there were sufficient grounds for declaring the HNLC as an Unlawful Association and made reference to this Tribunal under the provisions of Section 4 of the Act. The reference was received by this Tribunal on 15th December, 2012.

4. Along with the aforesaid Notification, the Central Government has furnished a background note on HNLC stating aims and objectives of HNLC; giving its "violence profile", as also its links with underground outfits of the North Eastern Region. As per the background note, the HNLC was formed in 1992 with the aim:

- (i) of liberation of Hynniewtrep People (Khasi and Jaintia tribals) from the alleged authoritarian rule of the Indian Government;
- (ii) to protect the Khasis and other Meghalaya tribes from exploitation; and
- (iii) to retain the indigenous culture and to eradicate social evils.

5. The background note states that though no major incident of violence by HNLC has been reported of late, however, small detachments of cadres are making efforts to regain lost ground in the Khasi-Jaintia Hills, comprising East Khasi Hills, West Khasi Hills, Ri-Bhoi and Jaintia Hills Districts. According to the aforesaid note, the violence profile of HNLC is as under:-

- (a) On 2nd July, 2012, HNLC cadres opened fire at the Lumdiengiri Police Station, Shillong, causing minor injuries to the son of a police officer. The outfit also posted a message on a facebook page called "the Voice of the Hynniewtrep", which is believed to be its so-called "official site", confirming its involvement and signaling its return;
- (b) On 12th July, 2012, HNLC cadres lobbed a crude bomb at a labor camp near a coal mine in Jaintia Hills District, killing one person and causing injuries to 9 labourers.

6. The background note further stated that in order to avoid detection of its cadres, senior cadres of the HNLC are using the services of Khasi Bangladeshi youth staying near the border for carrying out extortion on behalf of the organization. It is further stated that HNLC continues to maintain links with the National Democratic Front of Boroland (Ranjan Diamary), National Liberation Front of Tripura (Biswamohan Debbarma), National Socialist Council of Nagaland (Isac – Muviah) and Kanglei Yaol Kanba Lup. Further, HNLC also established links with Garo National Liberation Army in West Khasi Hills District. It is also stated that leaders of HNLC, Bobby Marwein, Self Styled Commander in Chief and Cheristerfield Thangkhiew, Self Styled General Secretary, continue to operate from Bangladesh. The background note further mentioned that HNLC, during November, 2011, has recruited around ten cadres from West Khasi Hills and sent them to Bangladesh for training.

7. On the afore-noted grounds, the Central Government formed the opinion that the activities of HNLC

are detrimental to the sovereignty and integrity of India, and if these are not immediately curbed and controlled, the said HNLC would regroup and rearm itself, expand its cadre, procure sophisticated weapons, cause loss of lives of civilians and Security Forces, and accelerate the anti-national activities.

Thus, in exercise of powers conferred by sub-Section (1) of Section-3 of the Unlawful Activities (Prevention) Act, 1967, the Central Government declared the HNLC to be unlawful association within the meaning of Section 2(o) of the Unlawful Activities (Prevention) Act, 1967, which was followed by the Notification under Section 4 of the Act, constituting the Unlawful Activities (Prevention) Tribunal, which was received on 15th December, 2012.

8. Having received the reference, vide order dated 17th December, 2012, this Tribunal listed the reference for preliminary hearing on 19th December, 2012.

9. On 19th December, 2012, on consideration of the material placed on record by the Central Government, notice under sub-Section (2) of Section 4 of the Act was issued to HNLC to Show Cause as to why it be not declared unlawful. The notice was directed to be served upon HNLC in the following manner:

- I. By affixing a copy of the notification to some conspicuous part of the office(s), if any, of the Association;
- II. By serving a copy of the notification, wherever possible, on the principal office-bearers, if any, of the Association;
- III. By proclaiming by beat of drums or by means of loudspeakers, the contents of the notification in the area in which the activities of the Association are ordinarily carried on;
- IV. By making an announcement over the radio from the local or nearest broadcasting station of the All India Radio;
- V. By pasting the notification on the Notice Board of the office of the Deputy Commissioners at the

Headquarters of each of the seven Districts in the state; and

- VI. By publication in a National Newspaper in English and in one vernacular newspaper of the respective States in which the activities of the HNLC are ordinarily carried on.

10. Pursuant to the directions given by the Tribunal, the Central Government has filed its affidavit of service dated 29.1.2013 of Mr. G. Sridharan, Deputy Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi while the State of Meghalaya has filed an affidavit of service dated 25.1.2013 of Mr. J. Lyngdoh, Commissioner & Secretary to the Government of Meghalaya, Political Department, Shillong, Meghalaya, putting on record the factum of service of notice upon HNLC by publication in the newspapers viz. Meghalaya Guardian, Mawphor & U. Nongsain Hima on 11.1.2013 and Salantini Janere on 12.1.2012; by broadcasting through the Shillong Station of AIR and telecast through the Doordarshan Kendra, Shillong. The notices are also stated to have been displayed on the

notice board of the Deputy Commissioners' offices in the Districts of the State of Meghalaya. The reports received from the concerned Deputy Commissioners have been filed along with the affidavit of service on behalf of the Central Government.

There was no appearance on behalf of the HNLC despite service of notice, as aforesaid.

11. In support of the Notification banning HNLC, the State of Meghalaya presented evidence by way of affidavits of the following witnesses:

- (i) Shri Sanjay Goyal, IAS, Deputy Commissioner, East Khasi Hills District, Shillong, Meghalaya;
- (ii) Shri M. Kharkrang, MPS, Superintendent of Police, East Khasi Hills District, Shillong, Meghalaya;
- (iii) Shri S. Kharlyngdoh, IAS, Deputy Commissioner, West Khasi Hills District, Nongstoin, Meghalaya;
- (iv) Shri S. Nongtnger, MPS, Superintendent of Police, West Khasi Hills District, Nongstoin, Meghalaya;
- (v) Shri A. Mawlong, IAS, District Magistrate, South West Khasi Hills District, Mawkyrwat, Meghalaya;

- (vi) Shri D. Sangma, MPS, Superintendent of Police, South West Khasi Hills District, Mawkyrwat, Meghalaya;
- (vii) Shri P.S. Dkhar, IAS, Deputy Commissioner, West Jaintia Hills District, Jowai, Meghalaya;
- (viii) Shri H.G. Lyngdoh, MPS, Superintendent of Police, West Jaintia Hills District, Jowai, Meghalaya;
- (ix) Shri Akash Deep, IAS, Deputy Commissioner, Ri-Bhoi District, Nongpoh, Meghalaya;
- (x) Shri C.V.S. Reddy, IPS, Superintendent of Police, Ri Bhoi District, Nongpoh, Meghalaya;
- (xi) Shri Abhishek Bhagotia, IAS, Deputy Commissioner, East Jaintia Hills District, Khliehriat, Meghalaya;
- (xii) Shri M.K. Dkhar, IPS, Superintendent of Police, East Jaintia Hills District, Khliehriat, Meghalaya;
- (xiii) Mr. J. Lyngdoh, Commissioner and Secretary to the Government of Meghalaya, Political Department, Shillong, Meghalaya.

12. The Central Government examined only one witness in support of the Notification, viz. Mr. G. Sridharan,

Deputy Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi.

13. With a view to invite public representation in support of or against the ban on HNLC, this Tribunal held its sittings at Shillong, Meghalaya for the purposes of recording of evidence on behalf of the State of Meghalaya, Central Government and/or from members of the public. An affidavit of Mr. J. Lyngdoh, Commissioner & Secretary, Political Department, Government of Meghalaya has been filed, wherein it is stated that due publicity of the sitting of this Tribunal was given both in the electronic and print media. Newspaper reports & confirmation letters received from the Doordarshan Kendra, Shillong and All India Radio, Shillong have been filed in support of the affidavit. However, despite the wide publicity accorded to the sittings of the Tribunal at Shillong, there was no appearance on behalf of HNLC during any of the sittings of the Tribunal.

14. The Examination-in-Chief of the following witnesses on behalf of the State of Meghalaya was recorded on 7th March, 2013 at Shillong: -

- I. Shri Sanjay Goyal, IAS, Deputy Commissioner, East Khasi Hills District, Shillong, Meghalaya **(SW-1)**;
- II. Shri M. Kharkrang, MPS, Superintendent of Police, East Khasi Hills District, Shillong, Meghalaya **(SW-2)**;
- III. Shri S. Kharlyngdoh, IAS, Deputy Commissioner, West Khasi Hills District, Nongstoin, Meghalaya **(SW-3)**;
- IV. Shri S. Nongtnger, MPS, Superintendent of Police, West Khasi Hills District, Nongstoin, Meghalaya **(SW-4)**;
- V. Shri A. Mawlong, IAS, District Magistrate, South West Khasi Hills District, Mawkyrwat, Meghalaya **(SW-5)**;
- VI. Shri D. Sangma, MPS, Superintendent of Police, South West Khasi Hills District, Mawkyrwat, Meghalaya **(SW-6)**;
- VII. Shri P.S. Dkhar, IAS, Deputy Commissioner, West Jaintia Hills District, Jowai, Meghalaya **(SW-7)**;

VIII. Shri H.G. Lyngdoh, MPS, Superintendent of Police, West Jaintia Hills District, Jowai, Meghalaya **(SW-8)**;

IX. Shri Akash Deep, IAS, Deputy Commissioner, Ri-Bhoi District, Nongpoh, Meghalaya **(SW-9)**;

X. Shri C.V.S. Reddy, IPS, Superintendent of Police, Ri Bhoi District, Nongpoh, Meghalaya **(SW-10)**

15. SW-1, Mr. Sanjay Goyal, IAS, Deputy Commissioner, East Khasi Hills District, Shillong, Meghalaya, has filed his affidavit exhibited as Ex. SW-1. In his affidavit he has stated that HNLC is very much active in his district as its top ranking leaders are still hiding in Bangladesh and they are running their activities from across the border. He further stated that Extortion, intimidating and kidnapping are the main offences of this organization against the public at large, more particularly the business community; and the cadres of this organization are engaged for raising of funds by raising demands on the business community etc. as per the instructions of their top leaders from across the border. He also stated that HNLC has established good relationship

with other banned insurgent groups of other North Eastern States like ULFA, NSCN, NDFB, NLFT etc. He further stated that the fear psychosis generated by the HNLC is one of the basic causes of non-reporting of cases to the police.

16. SW-2, Mr. M. Kharkrang, MPS, Superintendent of Police, East Khasi Hills District, Shillong, Meghalaya, has filed his affidavit exhibited as Ex. SW-2. Along with his affidavit, he has filed fourteen annexures. Annexure-1 is a copy of the 20 point programme of the HNLC, which was exhibited as Ex. SW-2/1. Annexure-2 are copies of newspaper reports regarding the 24 hour bandh called by HNLC on the eve of the Republic Day functions in the year 2011 due to which, the celebrations in the East Khasi Hills District of Meghalaya were disrupted. The said copy of the newspaper report was exhibited as Ex. SW-2/2. Annexure-3 is the copy of the FIR No. 20(2)11 registered at Lumdiengjri police station under Section 387 IPC read with Sections 10/13 of Unlawful Activities (Prevention) Act, 1967. The said FIR was registered pursuant to a complaint lodged by Shri Tendelly Marbaniang regarding receiving of a letter signed by Shri R.L. Nongsiej,

Area Commander, Shillong Circle of HNLC demanding a sum of Rs.50,00,000/- from him on behalf of the outfit. The said FIR was exhibited as Ex. SW-2/3. Annexure-4 is the copy of the FIR No. 8(3)11 registered at Pynursla police station under Sections 10/13 of Unlawful Activities (Prevention) Act, 1967. The said FIR was registered by Sh. V. Syiem, MPS, Addl. Superintendent of Police (Crime), East Khasi Hills, Shilong to the effect that during the interrogation of Shri Jackson Suting @ Jack, an active member of HNLC, he revealed the name of one Shri Pynbhalang Khongjee @ Bah Bah of Umkrem Village who was providing shelter and other logistical support to the HNLC. The said FIR was exhibited as Ex. SW-2/4. A prima facie case against the accused Shri Pynbhalang Khongjee @ Bah Bah has been established and the case has since been charge sheeted vide C.S. No. 21 dated 5.12.11 and is pending for court trial. Annexure-5 is the copy of FIR No. 62(4)11 registered at Sadar police station under Section 384 IPC read with Sections 10/13 of Unlawful Activities (Prevention) Act, 1967. The said FIR was lodged by Shri Highlander Kharmalki regarding receiving of demand calls from one person identifying himself as an HNLC cadre

demanding donation to the fund of HNLC. The said FIR was exhibited as Ex. SW-2/5. Annexure-6 is the copy of FIR No. 43(4)11 registered at Lumdiengjri police station under Sections 384/34 IPC read with Sections 10/13 of Unlawful Activities (Prevention) Act, 1967. The said FIR was registered by Shri Lainawot Kharjana of Jaiaw regarding receiving of demand calls from a person identifying himself as an HNLC cadre demanding donation to the fund of HNLC. The said FIR was exhibited as Ex. SW-2/6. The case has been charge sheeted vide C.S. No. 14 dated 26.2.12. Annexure-7 is the copy of the newspaper reports regarding a 17 hour bandh jointly called by HNLC along with 11 (eleven) outfits of North East from midnight of 14.8.2011 to 5:30 pm of 15.8.2011. Besides boycott of Independence Day celebrations, a general strike was also called by the 12 (twelve) outfits throughout the region to protest against the celebration of the Indian Independence Day in the 'Hynniewtrep Land' and the whole of the North East asking people not to participate in such celebrations. The said newspaper report was exhibited as Ex. SW-2/7.

17. Annexure-8 is the copy of FIR No. 23(9)11 registered at Pynursla police station under Sections 10/13 of Unlawful Activities (Prevention) Act, 1967. The said FIR was registered by Coy. Commander "D" Coy. of 98 Bn. BSF on apprehending of one person entering into India from Bangladesh. On preliminary interrogation, he identified himself as Shri Jansing Khonglah, an active member of HNLC based in Bangladesh and was coming from Bangladesh for attending a meeting of the outfit at Jaiaw, Shillong. The said FIR was exhibited as Ex. SW-2/8. The case has been charge sheeted vide C.S. No. 19 dated 17.11.11. Annexure-9 is the copy of FIR No. 82(10)11 registered at Lumdiengjri police station under Section 384 IPC read with Sections 10/13 of Unlawful Activities (Prevention) Act, 1967. The said FIR was registered by Smt. Dacilang Nongbet of Wathapbroo regarding receiving of a demand for donation of Rs.50,00,000/- over phone from a person who identified himself as an HNLC cadre. The said FIR was exhibited as Ex. SW-2/9. The case has been charge sheeted vide C.S. No. 01 dated 3.1.12. Annexure-10 is a copy of the newspaper report regarding a bandh jointly called by HNLC and 14 insurgent

groups of North East on the eve of Republic Day celebrations of 2012, resulting in the general public suffering from fear psychosis. The said newspaper report was exhibited as Ex. SW-2/10. Annexure-11 is the copy of FIR No. 19(5)12 registered at Pynursla police station under Sections 120/121(A) read with Sections 10/13 of Unlawful Activities (Prevention) Act, 1967. The said FIR was registered by Shri Rupa Masih, SI of 208 Bn. BSF regarding apprehending of one person entering into India from Bangladesh. On preliminary interrogation, he identified himself as Shri Poly Tangsang, an active member of HNLC and was coming from Bangladesh with the intention to go to Shillong. The said FIR was exhibited as Ex. SW-2/11. Annexure-12 is the copy of FIR No. 80(7)12 registered at Lumdiengjri police station under Sections 120(B)/307/353/324/511/427 IPC read with Sections 25(1B)/1(a)/1(b)/27 of Arms Act. The said FIR was registered pursuant to an incident on 2.7.2012 @ 10.15 am where some unknown miscreants opened fire at Lumdiengjri police station with sophisticated weapons from the road side and as a result of which the wall of Lumdiengjri PS and Traffic Branch were partially damaged and one Bittu Hajong

sustained minor injury. The said FIR was exhibited as Ex. SW-2/12. Annexure-13 is the copy of the newspaper report regarding a two day night curfew w.e.f. 12th to 13th August, 2012 from 10 pm to 5 am followed by a 36 hours bandh effective from 6.00 pm on 14.8.2012 to 6.00 pm on 16.8.2012 called by HNLC along with other insurgent groups of North East to protest against the celebrations of Independence Day, 2012. The said FIR was exhibited as Ex. SW-2/13. Annexure-14 is a copy of FIR No. 107(11)12 registered at Lumding police station under Sections 120(B)/121 IPC read with Sections 10/13 of Unlawful Activities (Prevention) Act, 1967. The said FIR was registered by Shri V. Syiem, MPS, Addl. Superintendent of Police (Crime) to the effect that during routine mobile patrolling, he spotted an HNLC Flag and an HNLC placard at the Jaiaw Students Field. The said FIR was exhibited as Ex. SW-2/14.

In his affidavit, SW-2 further stated that apart from the incidents of violence and unlawful activities cited by him in his affidavit (Ex. SW-2), there have been many more such incidents committed by the members of HNLC, which have gone unreported for fear of retribution. He further stated

that the business community is the main target of this organization as money is easily mobilized from them to shore up its finances so as to enable itself to perpetrate its activities and organizational growth. He also stated that HNLC has direct links with other banned unlawful organizations and the members of HNLC got training and support from these banned unlawful organizations.

18. In his examination-in-chief, SW-2 has stated that on 22.2.2013 i.e. after he sworn his affidavit (Ex. SW-2), the HNLC called for a bandh to boycott the elections to the State Assembly scheduled for 23.2.2013, as a result whereof, all normal functioning in the State, in particular, the shops and commercial establishments in East Khasi Hills District were not permitted to open and normal life, therefore, was paralysed for about 36 hours. He also produced a true copy of the newspaper Shillong Times of Thursday, 21st February, 2013, which makes a mention of the bandh called by the HNLC. The said copy of the newspaper report was exhibited as Ex. SW-2/15.

19. SW-3, Mr. S. Kharlyngdoh, IAS, Deputy Commissioner, West Khasi Hills District, Nongstoin, Meghalaya, has filed his affidavit exhibited as Ex. SW-3. In his affidavit he has stated that HNLC since its inception has clearly intended and supported the claims for secessionist activities and also has incited the tribal youths of the state to bring about such secession. He has further stated that HNLC cadres are still in possession of illegal arms and ammunition of sizable quantity and they are yet to surrender legally before the Government and that extortion of money from general public including businessman, coal traders and contractors is still being carried out surreptitiously by the HNLC cadres, though not reported. He has also stated that HNLC has been calling bandhs on the Republic and Independence Days every year; and its cadres are continuing their unlawful activities and armed struggle, with a view to disrupting the sovereignty and territorial integrity of India. He further stated that HNLC has a direct nexus and links with National Socialist Councils of Nagalim (NSCNIM), which is supporting HNLC by means of supplying of arms and ammunitions, imparting training to its cadres and also

providing logistic support. Along with his affidavit SW-3 has annexed true copies of the newspaper clippings regarding the bandh called by the HNLC, which are exhibited as Ex. SW-3/1 to SW-3/10 respectively.

20. SW-4, Mr. S. Kharlyngdoh, MPS, Superintendent of Police, West Khasi Hills District, Nongstoin, Meghalaya, has filed his affidavit exhibited as Ex. SW-4. In his affidavit he has reiterated the facts sworn by his Deputy Commissioner, Mr. S. Kharlyngdoh in his affidavit (Ex. SW-3). Along with his affidavit, he has also annexed the copies of the newspaper clippings regarding the bandh called by the HNLC, and the same were exhibited as Ex. SW-4/1 to SW-4/10.

21. In his examination-in-chief, SW-4 has stated that HNLC has been engaged in extortion of money from the public including businessmen and contractors and they have created a fear psychosis amongst the public as a result of which they are deterred from filing formal complaints. He stated that they come to know about these activities through their confidential police sources. He has also stated that

after 7.1.2013 i.e. the date his affidavit was sworn (Ex. SW-4), the HNLC has called a bandh on 22.2.2013 on the eve of the polling for elections to the State Assembly, which caused widespread disruption of life due to the forcible closing of shops and commercial establishments in the district, including those providing daily necessities. He also stated that because of the said bandh called by HNLC on 22.2.2013, the normal life in his district remained disrupted for about 36 hours.

22. SW-5, Mr. A. Mawlong, IAS, District Magistrate, South-West Khasi Hills District, Mawkyrwat, Meghalaya, has filed his affidavit exhibited as Ex. SW-5. In his affidavit he has also reiterated facts similar to those sworn by Mr. S. Kharlyngdoh in his affidavit (Ex. SW-3). In his examination-in-chief, SW-5 has stated that on 26.1.2013 i.e. after he has sworn his affidavit, a bandh was called by the HNLC which caused widespread disruption of life and prevented people from participating whole-heartedly in the Republic Day celebration in the district. He further stated that a bandh was also called on the eve of the assembly election for which

polling was held on 23.2.2013, as a result of which shops and commercial establishments, including shops selling essential commodities, remained closed and disrupted normal life for almost 36 hours.

23. SW-6, Mr. D. Sangma, MPS, Superintendent of Police, South-West Khasi Hills District, Mawkyrwat, Meghalaya, has filed his affidavit exhibited as Ex. SW-6. Along with his affidavit, he has filed two annexures. Annexure-A is the copy of the FIR No. 7(8)12 registered at Mawkyrwat police station under Sections 120(B)/121/121(A)/336/506 IPC read with Sections 10/13 of Unlawful Activities (Prevention) Act, 1967 and Sections 25(1A)(1B)/27 of the Arms Act. The said FIR was registered pursuant to an information received by the police authorities on 14.8.2012 at about 10.30 am that the HNLC cadres numbering 5/6 came to Phatjaud village under Mawkyrwat PS and hoisted their organization flag at the road side and also fired 3 (three) rounds in the air from their AK series rifle before leaving. The police team on reaching the spot found that an HNLC flag was erected with bamboo pole and also a

signboard is placed at the bottom which read as "Long Live HNLC, Arise, Awake, Sacrifice". One Chinese made hand grenade was also found buried under the flag pole, which was removed by the Bomb Squad. Hence, a case has been registered against Bobby Marwein, Commander-in-Chief and Chesterfield Thangkhiew, General Secretary of the Organization. The said FIR was exhibited as Ex. SW-6/1. Annexure-B is the copies of the paper clippings regarding the bandh called by the HNLC during the Republic Day and Independence Day celebrations. The said clippings are exhibited as Ex. SW-6/2(a) & Ex. SW-6/2(b).

24. In his affidavit, SW-6 has stated that HNLC cadre is continuing with their armed struggle and their unlawful activities with a view to disrupt the sovereignty and territorial integrity of India. He has also stated that in the event of lifting of ban, it is apprehended that HNLC may indulge in further anti-national and anti-social activities, threatening the sovereignty of the country and creating fear psychosis in the minds of the general citizen which would be detrimental to the peace and tranquility of the district.

25. SW-7, Mr. P.S. Dkhar, IAS, Deputy Commissioner, West Jaintia Hills District, Jowai, Meghalaya, has filed his affidavit exhibited as Ex. SW-7. Along with his affidavit, he has filed various annexures. Annexure-I is the copy of the FIR No. 12(1)11 registered at Jowai police station under Sections 10/13 of Unlawful Activities (Prevention) Act, 1967 and Sections 25(1a)(1b)(a-b) of the Arms Act. The said FIR was lodged by Inspector E.B. Kyndiah, CI(West), Jowai to the effect that on 25.1.2011 at around 6.45 pm, he along with his staff while conducting checking over Jowai Town area to prevent any untoward incidence during Republic Day Celebration, 2011 found two persons near Rymbai Petrol Pump carrying one big airbag moving in a very suspicious manner. On their checking, two AK-47 rifles and 85 rounds of ammunition were recovered from their possession. On further interrogation, they disclosed that they were the members of banned HNLC outfit known as Shri Rilang Dohling and Shri Batskhem Tangsong. The said FIR was exhibited as Ex. SW-7/1. Annexure-II is the copies of the newspaper clipping regarding the bandh called by the

Coordination Committee (Corcom), a conglomerate of 12 outfits from North East India comprising of 7 Manipuri outfits besides HNLC, KLO, NLFT, TPDF, ULFA on the eve of Republic Day celebration of 2012, which resulted in general people suffering from fear psychosis and the normal life of the people during the celebration got disrupted. The said copies of the newspaper clippings are exhibited as Ex. SW-7/2(a) to SW-7/2(e). Annexure-III is the copy of the seizure list of 100 nos. of HNLC stickers detected by Jowai Police while conducting checking at Myntdu from the Shillong-Jowai commercial vehicle Sumo in which "25 years of struggle" the "emblem of HNLC" and "Long Live HNLC, Awake, Arise, Sacrifice" was inscribed. The said seizure list was exhibited as Ex. SW-7/3. Annexure-IV is the copy of the newspaper reports appeared on the Local Daily Meghalaya Times on 22.7.2012 under the caption "HNLC declares its return; to sternly deal with social evils". The news item also covers a picture of the outfit in which "WE ARE BACK LONG LIVE H.N.L.C. ARISE AWAKE SACRIFICE" was inscribed. The said newspaper report is exhibited as Ex. SW-7/4.

26. In his affidavit, SW-7 has stated that in his district, HNLC is very active and extortion, intimidating and kidnapping are the main offences of the organization against the people at large, more particularly the business community. He has also stated that NDFB, GNLA and NLFT are the main supporters of this organization, which is based in Bangladesh. The HNLC cadres commit crimes and escape to Bangladesh so that they cannot be traced easily. He also stated that the activities of HNLC along with other militant groups cause serious threat to the sovereignty, integrity and internal and external security of India. In his examination-in-chief, he has stated that on the eve of the assembly elections for which polling was held on 23.2.2013, as a result of which shops and commercial establishments, including the shops selling essential commodities remained closed and the normal life remained disrupted for almost 36 hours.

27. SW-8, Mr. H. G. Lyngdoh, MPS, Superintendent of Police, West Jaintia Hills District, Jowai, Meghalaya, has filed his affidavit exhibited as Ex. SW-8. The affidavit filed by SW-8 is on the similar lines as was sworn and filed by his Deputy

Commissioner, Mr. P.S. Dkhar (Ex. SW-7). The annexures filed by him along with his affidavit are same as were filed by SW-7 except Annexure-III, which is a true copy of FIR No. 121(7)12 registered by Khliehriat police station under Sections 307/326/34 IPC read with Sections 25 (1-a)(1-b)(a)/27 of Arms Act. The said FIR was lodged by Inspector E.B. Kyndiah, CI (West), Jowai to the effect that on 21.7.2012 between 4.00 pm to 5.00 pm on receiving source information a team led by him conducted operations at Pynthorsale village which falls under Khliehriat sub-division. In the process encounter took place between the police and the four suspected HNLC cadres, but there were no casualty from both sides. The suspected HNLC cadres managed to escape and from the site of the incident but the police recovered one 9 mm pistol with one live round magazine, six numbers of empty cases of AK-47 and First Aid item. The said FIR was exhibited as Ex. SW-8/3.

28. SW-9, Mr. Akash Deep, IAS, Deputy Commissioner, Ri Bhoi District, Nongpoh, Meghalaya, has filed his affidavit exhibited as Ex. SW-9. In his affidavit, he

has stated that it is confirmed that HNLC cadres are conniving with the United Liberation Front of Assam (ULFA), National Democratic Front of Bodoland (NDFB) providing them with logistic support for their nefarious activities and they are causing a serious threat to the sovereignty, territorial integrity and external security of India. He further stated that since its inception the HNLC has clearly promoted its secessionist activities and has also incited tribal youth of the State to bring about such secession. He also stated that their sincerity to abjure violence totally and abide by the law of the land still buried in obscurity. In his examination-in-chief, he has stated that after the date when he sworn his affidavit (SW-9), the HNLC had called a Bandh to boycott the polls to the State Assembly that were scheduled to be held on 23.2.2013 and sought the closure of all shops and establishments including those catering to essential commodities, as a result of which, normal life in Ri-Bhoi district remained disrupted for about 36 hours.

29. SW-10, Mr. C.V.S. Reddy, IPS, Superintendent of Police, Ri Bhoi District, Nongpoh, Meghalaya, has filed his

affidavit exhibited as Ex. SW-10. In his affidavit, he has reiterated the same facts as were sworn by his Deputy Commissioner, Mr. Akash Deep, in his affidavit exhibited as Ex. SW-9. His examination-in-chief also contains similar statements.

30. The Examination-in-Chief of the following two witnesses on behalf of the State of Meghalaya was recorded on 8th March, 2013 at Shillong:

- I. Shri Abhishek Bhagotia, IAS, Deputy Commissioner, East Jaintia Hills District, Khliehriat, Meghalaya **(SW-11)**;
- II. Shri M.K. Dkhar, IPS, Superintendent of Police, East Jaintia Hills District, Khliehriat, Meghalaya **(SW-12)**;

31. SW-11, Mr. Abhishek Bhagotia, IAS, Deputy Commissioner, East Jaintia Hills District, Khliehriat, Meghalaya, has filed his affidavit exhibited as Ex. SW-11. Along with his affidavit he has annexed four annexures. Annexure-I (colly) are the true copies of the newspaper reports regarding the 24 hours bandh called by the HNLC on

the eve of the Independence Day celebration of 2011 effective from 5.00 pm on 14.8.2011 to 5.00 pm on 15.8.2011 to protest against the celebrations of the Indian Independence Day within the Hynniewtrep land asking the people not to participate in such celebrations. The said copies of the newspaper reports, exhibited as Ex. SW-11/1(a) & Ex. SW-11/1(b). Annexure-II (colly), are the true copies of the newspaper reports regarding bandh call given by the Coordination Committee (Corcom), a conglomerate of 12 outfits from North East India comprising of 7 Manipuri outfits besides HNLC, KLO, NLFT, TPDF & ULFA on the eve of the Republic Day celebrations of 2012 calling for mass boycotting of the Republic Day, January 26th, 2012 as a mark of resistance against Indian occupation of the North East Region (N.E.R.) effective from 1.00 am to 5.30 pm on 26.1.2012. The said copies of the newspaper reports are exhibited as Ex. SW-11/2(a) & Ex. SW-11/2(b). Annexure-III is a true copy of FIR No. 121(7)12 registered by Khliehriat police station under Sections 307/34 IPC read with Sections 25(1-a)(1-b)/27 of the Arms Act. The said FIR was lodged by Inspector E.B. Kyndiah, CI (E), Jowai to the effect that on

21.7.2012, between 4.00 pm to 5.00 pm on receiving source information, a team led by him conducted operations at Pynthorsale village which falls under Khliehriat sub-division. In the process an encounter took place between the police and the four suspected HNLC cadres, but there were no casualty from both sides. The suspected HNLC cadres managed to escape, but from the site of the incident the police recovered one 9 mm pistol with one live round magazine, six numbers of empty cases of AK-47 and First Aid items. The said FIR was exhibited as Ex. SW-11/3. Annexure-IV (colly) is the copy of the newspaper reports appeared on the Local Daily Meghalaya Times on 22.7.2012 under the caption "HNLC Declares Its Return; To Sternly Deal With Social Evils". The news item also covers a picture of the outfit in which "WE ARE BACK LONG LIVE H.N.L.C. ARISE. AWAKE. SACRIFICE" was inscribed. The said newspaper reports are exhibited as Ex.SW-11/4(a), Ex.SW-11/4(b) & Ex.SW-11/4(c).

32. In his affidavit, SW-11 has stated that the HNLC has been actively operating its unlawful, nefarious and anti-

national activities in East Jaintia Hills district in the State of Meghalaya. He has further stated that the HNLC gave Assembly Election boycott call on 22.2.2013 just one day prior to the Assembly Election which was held on 23.2.2013. As a result of the boycott call, there was a complete bandh for 36 hours and the people in East Jaintia Hills district were badly affected by the said boycott and they could not even get their daily provision of food and other articles of daily use.

33. SW-12, Mr. M.K. Dkhar, IPS, Superintendent of Police, East Jaintia Hills District, Khliehriat, Meghalaya, has filed his affidavit exhibited as Ex. SW-12. The affidavit filed by SW-12 is on similar lines as was sworn by his Deputy Commissioner, Mr. Abhishek Bhagotia in his affidavit (Ex. SW-11) and the annexures filed were also similar. The said annexures were exhibited as Ex. SW-12/1(a) to Ex. SW-12/1(d), Ex. SW-12/2 and Ex. SW-12/3(a) to Ex. SW-12/3(d). In his affidavit he has stated that extortion, intimidating and kidnapping are the main objectives of this organization against the public at large, more particularly the business

community. Fear psychosis is one of the basic causes because of which the victims or affected persons do not report the cases to police. He has further stated that the endeavour of the HNLC cadres is that by creating fear psychosis, the general public is compelled to toe their line of secession of the state from the Union of India. He has also stated that the activities of HNLC along with other militant groups cause serious threat to the sovereignty, integrity and internal and external security of India.

34. There was no appearance on behalf of HNLC or any member of the general public to depose in support of or against the Notification, despite wide publicity having been given in the local/vernacular newspapers, informing the general public of the sittings of the Tribunal. However, with a view to provide one more opportunity to the HNLC as also the general public, the next sitting of the Tribunal was fixed at Shillong on 3rd and 4th April, 2013.

35. The Examination-in-Chief of Mr. G. Sridharan, Deputy Secretary, Ministry of Home Affairs, Government of

India, North Block, New Delhi (**CW-1**), witness on behalf of the Central Government was recorded on 3rd April, 2013 at Shillong.

36. CW-1, Mr. G. Sridharan, Deputy Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi, has filed his affidavit exhibited as Ex. CW-1/1. Along with his affidavit he has annexed various annexures. Exhibit CW-1/A is the true copy of the Notification No. 2718(E) dated 16.11.2012, whereby the decision of the competent authority to ban the HNLC by declaring it unlawful association under Section 3(1) of the Unlawful Activities (Prevention) Act, 1967 was published. Exhibit CW-1/B is the gazette notification published on 19th May, 2005 containing the order of the Tribunal in terms of Section 4(3), whereby the earlier decision of the Central Government to ban HNLC was upheld. Exhibit CW-1/C and Exhibit CW-1/D are copies of notification No. 789(E) dated 21.5.2007 & notification No. 1372(E) dated 28.5.2009 respectively containing the orders passed by the earlier Tribunals to whom the matter was referred under the Act where also the

said Tribunals upheld the decision of the Central Government to ban the HNLC. Exhibit CW-1/E is the copy of notification No. 1268(E) dated 1.6.2011 wherein the Tribunal vide order dated 13.5.2011 has upheld the previous notification dated 16.10.2010 issued by the Central Government declaring the HNLC as an unlawful association. Exhibit CW-1/F is a short summary of the various activities that have come to notice of the government from September, 2010 onwards. Exhibit CW-1/G is a brief summary of the aims & objectives, and activities of the HNLC.

37. In his affidavit, CW-1 has stated that all the material placed before the Tribunal, including all the facts mentioned in the affidavit as well as the exhibits, demonstrate that the unlawful activities of the HNLC are continuing. He also stated that there is every likelihood of the HNLC seeking to expand the scope of its secessionist, subversive, terrorist and violent activities, in case the proposed ban by the Central Government is not affirmed for the period envisaged in the notification issued under the Act.

He, therefore, prayed on behalf of the Central Government that the notification dated 16th November, 2012 (Ex. CW-1/A) be confirmed in terms of Unlawful Activities (Prevention) Act.

38. CW-1 has also handed over a sealed cover containing inputs and information from the Central Government Intelligence Agencies, Central Forces as well as State Government of Meghalaya, pointing out the unlawful activities of HNLC, its wings and factions. Looking to the sensitive nature of the contents of the sealed cover, CW-1 claimed privilege on behalf of the Government of India from their disclosure to the public at large.

39. The Examination-in-Chief of Mr. Jopthiaw Lyngdoh, IAS, Commissioner and Secretary, Political Department, Government of Meghalaya, Shillong, Meghalaya (**SW-13**), was recorded on 4th April, 2013 at Shillong.

40. SW-13, Mr. Jopthiaw Lyngdoh, IAS, Commissioner and Secretary, Government of Meghalaya, Political Department, Shillong, Meghalaya, has filed his affidavit

exhibited as Ex. SW-13/1. Along with his affidavit he has annexed various annexures. Annexure-I (colly) are photocopies of various newspaper reports that have been published in media from 4th November, 2011 upto 25th January, 2013. The said photocopies are collectively marked as Ex. SW-13/2. Annexure-II (colly) are the copies of the press release and e-mails, which have been issued by the HNOLC from time to time. The same are collectively marked as Ex. SW-13/3.

41. In his examination-in-chief, SW-13 has stated that after the attestation of his affidavit (Ex. SW-13/1), there was a photographic report on the front page of the local newspaper 'Mawphor' (Khasi) dated 31.3.2013, displaying the arsenal with the HNLC cadres comprising like number of AK-47rifles, 9 mm pistols and grenades etc. A copy of the said newspaper dated 31.3.2013 is placed on record and marked as Exhibit SW-13/4. Since the said newspaper report is published in Khasi language, SW-13 has also placed on record the true English translation of the report. The same marked as Exhibit SW-13/4A. He has also stated that it is for

the first time that HNLC has released actual photographs showing the arms and ammunition etc. held by them. He has further stated that in the local newspaper 'Mawphor' (Khasi) dated 4th April, 2013, a report has been published apparently based on an e-mail received by the said newspaper from HNLC attempting to instigate the public against the State Police. A copy of the said newspaper is placed on record and marked as Exhibit SW-13/5. He has stated that the relevant report to which he has mentioned is at point 'A' in exhibit SW-13/5. Since the said newspaper report is published in Khasi language, SW-13 has placed on record the true English translation of the report regarding point 'A' on exhibit SW-13/5. The same is marked as Exhibit SW-13/5A.

42. The witnesses examined on behalf of the Central Government & the State of Meghalaya were not cross-examined as no one appeared on behalf of HNLC despite service of notice and despite the fact that the Tribunal held its sittings at Shillong to enable participation by HNLC and/or the general public. Hence, the evidence brought on record

by the Central Government and the State of Meghalaya has remained unrebutted.

43. The matter was thereafter listed for arguments.

44. Learned Additional Solicitor General appearing for the Central Government at the outset submitted that HNLC is an 'unlawful association' within the meaning of Section 2(p) of the Act and the activities indulged in by the HNLC cadres satisfy the test of 'unlawful activity', as defined in Section 2(o) of the Act. Learned ASG referred to the statements of each of the witnesses who have deposed on identical lines, to the effect that the members of HNLC have from time to time been indulging in various kinds of unlawful activities, intending, supporting or endeavouring to bring about the secession of a part of the territory of India from the Union. It is claimed that the HNLC cadres have further been inciting individuals or a group of individuals to bring about such secession by armed struggle. The activities of this organization, it is stated, are aimed at disrupting the sovereignty and territorial integrity of India. It is further

claimed that extortion, intimidating and kidnapping are the main offences of this organization against the public at large, more particularly the business community. Fear psychosis is one of the basic causes because of which the victims or the affected persons are stated to be refraining from reporting the cases to the police. The endeavour of the HNLC cadres, it is claimed, is that by creating a fear psychosis, the general public is compelled to toe their line of secession of the State from the Union of India. Anti-national, unlawful and nefarious activities are resorted to by the HNLC cadres to achieve this objective.

45. It is further submitted by the learned ASG that the principles for which HNLC stands are patently anti-national with the prime objective of secession of the State of Meghalaya from the Union of India, inter alia, on the specious claim of denial of the right to self determination of the indigenous people, as confirmed by the United Nations. It claims that under the present administrative set up, the right of ownership and other rights of the indigenous people, have been forcibly snatched, and therefore, in order to fight

against suppression and exploitation by outsiders and in order to regain their rights, HNLC stands for a struggle, whether through peaceful means or bloodshed, against the Union of India. Learned ASG also referred to a general shut down called by the HNLC cadres on the eve of the Republic Day celebrations of 2012, by HNLC in collaboration with 12 (twelve) insurgents groups. These outfits, including the HNLC, stated that celebration of Republic Day serves to legitimize a veiled form of colonial oppression, and that they are determined to eject from the region. And since the people of North-East Region are not Indian, there is no reason to take part in the celebration. These acts, it is submitted amount to a direct challenge to the authority of the State, and is intended to disrupt the sovereignty and territorial integrity of India and falls within the definition of "unlawful activity" as given in sub-section (o) of Section 2 of the Act. Hence, on this ground itself the ban on HNLC is liable to be confirmed.

46. Learned Additional Solicitor General next referred to the evidence brought on record by way of the statement

of the witnesses examined on behalf of the Central Government and the State of Meghalaya to show that the HNLC cadres have been employing and engaging in armed means to achieve their objective. Referring to the affidavit of SW-4, Sh. S. Nongstnger, SP, West Khasi Hills, District Nongstoin, it is submitted that HNLC cadres are still in possession of illegal arms and ammunition in sizeable quantities, which are reportedly kept in various hideouts and that HNLC cadres are continuing with their armed struggle and their unlawful activities with a view to disrupt the sovereignty and territorial integrity of India. It is submitted that HNLC cadres have direct nexus and links with National Socialist Councils of Nagalim (NSCN-IM), which is supporting HNLC by supplying arms and ammunition, imparting training to its cadres and logistic support, to disturb the security and tranquility of the State. In this regard learned ASG also referred to the statement of SW-13, Mr. J. Lyngdoh, Commissioner and Secretary, Political Department, Government of Meghalaya, wherein he has referred to a photographic report published on the front page of the local newspaper 'Mawphor' dated 31.3.2013 wherein the arsenal

with the HNLC cadres comprising large number of AK-47 rifles, 9 mm pistols and grenades etc. are shown to be in possession of the HNLC cadres. It is also submitted by SW-13 that it is for the first time that HNLC has released the actual photographs showing the arms and ammunitions etc. held by them.

47. Learned ASG also referred to the statements of SW-1, SW-2, SW-3, SW-4, SW-7 & SW-8 to bring home the ground that HNLC cadres have been indulging in acts of intimidation and extortion for collection of funds for their organization. Learned ASG referred to the incident dated 24.2.2011 when one Sh. Tendelly Marbaniang lodged a written FIR with PS Lumdiengjri to the effect that on 22.2.2011 he received a closed cover letter addressed to him at his residence and on opening it he found that the said letter signed by Sh. R.L. Nongsiej, Area Commander, Shillong Circle of HNLC, demanding Rs.50,00,000/- to the funds of the outfit. Based on this written report, case FIR No. 20(2)11 under Section 387 IPC read with Sections 10/13 of the Act was registered at PS Lumdiengjri. The copy of the FIR has

been placed on record. It is further submitted that clandestine operations by HNLC cadres for collection of funds by illegal means are still being carried out by HNLC and a large number of cases involving extortion of money from general public, including businessmen, coal traders and contractors are not reported on account of fear of reprisals.

48. Learned ASG next submitted that HNLC cadres are maintaining active links with other insurgent groups of the North Eastern Region for carrying out extortion and intimidation and further that HNLC cadres have been maintaining camps in some neighbouring countries for the purpose of sanctuary and training. Learned ASG referred to statement of SW-2, Sh. M. Kharkrang, SP, East Khasi Hills District, wherein, based on intelligence inputs, he has stated that HNLC has established direct links and good relations with other anti-national insurgent groups of the State of North Eastern India, like the United Liberation Front of Asom, The National Socialist Council of Nagalim, the National Democratic Front of Bodoland and the National Liberation Front of Tripura, which leads to a very strong basis for

suspecting and apprehending that the HNLC is likely to create more trouble in the near future, posing a serious threat to the national security and sovereignty of India. Referring to the statement of SW-4, it is stated that the links maintained by the HNLC with the other insurgent groups and banned organizations is capable of posing serious threat to the sovereignty, territorial integrity and internal and external security of the country in general and the State in particular.

49. Learned ASG next submitted that the top ranking leaders of HNLC are hiding in Bangladesh and they are running their activities from across the border. Learned ASG referred to the incident dated 23.9.2011, when a BSF patrolling party spotted one person entering into India from Bangladesh and thereafter apprehended him. On preliminary interrogation, the apprehended man identified himself as Jansing Khonglah, an active member of HNLC based in Bangladesh and was coming from Maulvi Bazaar, Bangladesh for attending a meeting of HNLC at Jaiaw, Shillong. Case FIR No. 23(9)11 under Section 10/13 of the Act was registered against the accused.

50. It is further submitted that there have been repeated incidents of bandhs and violence on National Days such as Republic Day and Independence Day by the HNLC cadres where people are forced under threat & coercion to stay indoors, which is a direct challenge to the democracy and constitutional set up of our country. Learned ASG drew attention of the reports published in the local newspapers with photographic display of arms & ammunition possessed by the HNLC cadres.

51. It is, thus, submitted that the activities of HNLC are unlawful within the meaning of 'unlawful activity' as defined under sub-Section (o) of Section 2 of the Act and that HNLC is an unlawful association within the meaning of sub-Section (p) of Section 2 of the Act and thus, the said association is liable to be declared unlawful association under sub-Section (1) of Section 3 of the Act and this Tribunal should confirm the said Notification under sub-Section (3) of Section 4 of the Act.

52. Mr. Ranjan Mukherjee, learned counsel for the State of Meghalaya advanced arguments on similar lines and submitted that in view of the unlawful and anti-national activities indulged in by the HNLC cadres and also in view of the un rebutted evidence brought on record, the Notification dated 16th November, 2012 banning HNLC be confirmed.

53. During the recording of the evidence of the witness of the Central Government, CW-1, Mr. G.-Sridharan, the witness tendered a sealed cover containing information from the Central Government Intelligence Agencies, Central Forces as well as State Government of Meghalaya pointing out the unlawful activities of HNLC, its wings and factions. The said sealed cover has been opened and the contents thereof perused. The envelope is found to contain information on the illegal and unlawful activities indulged in by the HNLC cadres and the assessment undertaken by the security agencies of the activities of HNLC. The contents of the documents establish that small detachments of cadres are making efforts to regain lost ground in the Khasi-Jaintia Hills, comprising of East Khasi Hills, West Khasi Hills, Ri-Bhoi

and Jaintia Hills districts. The involvement of the HNLC has been noticed in two recent incidents of violence. On 2nd July, 2012, HNLC cadres opened fire at the Lumdiengjri (PS-Shillong/East Khasi Hills District), causing minor injuries to the son of a police official. The outfit was quick to post a message on a facebook page called "the voice of the Hynniewtrep", which is believed to be its so-called "official site", confirming its involvement and signaling its return. The HNLC cadres also lobbed (July 12, 2012) a crude bomb at a labour camp near a coal mine in Jaintia Hills District, killing one person and causing injuries to 9 labourers. It is further stated that HNLC has recruited around 10 cadres from West Khasi Hills District during November, 2011, after a gap of 9 years, who were sent to Bangladesh for training.

54. The outfit's separatist ideology and its nexus with other North East militant groups like NDFB/RD, NLFT/B, NSCN/IM and KYKL is also stated to be a major security concern. Meanwhile, HNLC's reported move to establish links with GNLA in West Khasi Hills Districts is stated to have ominous implications for the law and order situation in the

State. The use of foreign soil (Bangladesh) for ~~their~~ training/hideout/shelter purposes is also stated to be a cause of serious concern as there is every possibility that foreign forces may use the outfit for carrying out subversive activities against India.

55. It is on the basis of the aforesaid evidence brought on record, which has gone unrebutted despite opportunities, that the Tribunal is required to adjudicate in terms of sub section (3) of Section 4 whether, there is sufficient cause for declaring HNLC to be unlawful.

56. The proceedings before this Tribunal are not strictly in the nature of a trial. The adjudicatory process is not required to follow the pattern of a trial but confined to being an enquiry aimed at gathering material needed to form an opinion as required under sub Section (3) of Section 4 of the Act. However, since the decision arrived at by the Tribunal has the likelihood of restraining the fundamental right to association for a period of two years, the Tribunal is required to adopt, inter alia, by affording a, just, fair and

reasonable procedure in arriving at its conclusions, fair and reasonable opportunity to all concerned to appear and to present their side of the matter, as held by the Supreme Court of India in the case of ***Jamaat-E-Islami Hind Vs. Union of India (1995) 1 SCC 428***. Consequently, widespread publicity, as noticed above, was given to the sitting of the Tribunal at Delhi & Shillong on various dates, as noted above. However, despite the publicity, none appeared on behalf of the banned organization.

57. India is a sovereign country. Our Constitution defines rights and obligations of its citizens. The Constitution (16th Amendment, 1963) empowers the Central Government to impose, by law, reasonable restrictions on individuals or associations (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise) who intend, or support any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession

or secession or which disclaims, questions, **disrupts or is** intended to disrupt the sovereignty and territorial integrity of India or which causes or is intended to cause disaffection against India in the interest of sovereignty and integrity of India.

58. In this context, it would be useful to refer to the Preamble of the Unlawful Activities (Prevention) Act, 1967, which reads as follows:

"An Act to provide for the more effective prevention of certain unlawful activities of individuals and associations, and for dealing with terrorist activities, and for matters connected therewith."

"Unlawful activity", has been defined in Section 2(1)(o) of the said Act and it reads as under:-

"unlawful activity", in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise),-

(i) which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites any individual or

group of individuals to bring about such cession or secession; or

(ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India; or

(iii) which causes or is intended to cause disaffection against India;"

Similarly, the expression, "association", has been defined in Section 2(1) (a) thereof as follows:

"association" means any combination or body of individuals."

While, "unlawful association", has been defined in Section 2(1)(p) as under:-

"unlawful association" means any association, -

(i) which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or

(ii) which has for its object any activity which is punishable under section 153A or section 153B of the Indian Penal Code (45 of 1860), or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity:

Provided that nothing contained in sub-clause (ii) shall apply to the State of Jammu and Kashmir."

59: In this context, Section 3(2) is also relevant. It enjoins upon the Central Government specific steps for declaring any association to be unlawful by notification in the official Gazette if it is of the opinion that the association is, or has become an unlawful association. That Section reads as follows:

"3. Declaration of an association as unlawful. - (1) If the Central Government is of opinion that any association is, or has become, an unlawful association, it may, by notification in the Official Gazette, declare such association to be unlawful.

(2) Every such notification shall specify the grounds on which it is issued and such other particulars as the Central Government may consider necessary:

Provided that nothing in this sub-section shall require the Central Government to disclose any fact which it considers to be against the public interest to disclose.

(3) No such notification shall have effect until the Tribunal has, by an order made under section 4, confirmed the declaration made therein and the order is published in the Official Gazette:

Provided that if the Central Government is of opinion that circumstances exist which render it necessary for that Government to declare an association to be unlawful with immediate effect, it may, for reasons to be stated in writing, direct that the notification shall, subject to any order that may be made under

section 4, have effect from the date of its publication in the Official Gazette.

(4) Every such notification shall in addition to its publication in the Official Gazette, be published in not less than one daily newspaper having circulation in the State in which the principal office, if any, of the association affected is situated, and shall be served on such association in such manner as the Central Government may think fit and all or any of the following modes may be followed in effecting such service, namely:-

(a) by affixing a copy of the notification to some conspicuous part of the office, if any, of the association; or

(b) by serving a copy of the notification, where possible, on the principal office-bearers, if any, of the association; or

(c) by proclaiming by beat of drum or by means of loudspeakers, the contents of the notification in the area in which the activities of the association are ordinarily carried on; or

(d) in such other manner as may be prescribed.

60. The notification dated 16th November, 2012 banning the HNLC reads as follows:-

“MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 16th November, 2012

S.O. 2718(E). – Whereas the Central Government is of the opinion that the Hynniewtrep National Liberation Council

(hereinafter referred to as the HNLC) of Meghalaya has been openly declaring as its objective the secession of the areas in the state of Meghalaya (largely inhabited by Khasi and Jaintia tribals) from the Indian Union;

And whereas, the Central Government is further of the opinion that the HNLC, -

- (a) has openly declared as their objective the secession of the State of Meghalaya from the Indian Union;
- (b) has been employing and engaging in armed means to achieve their objective; and
- (c) has been indulging in acts of intimidation and extortion for collection of funds for their organization;

And whereas, the Central Government is also of the opinion that HNLC has been, -

- (i) indulging in acts of intimidation, extortion and looting of civilian population for collection of funds for their organization;
- (ii) maintaining links with other insurgent groups of the North Eastern Region for carrying out acts of extortion and intimidation;
- (iii) maintaining camps in neighbouring country for the purpose of sanctuary and training of their cadres.

And whereas, the Central Government is also of the opinion that for the reasons aforesaid, the HNLC together with its factions, wings or front organizations, is an unlawful association;

And whereas, the Central Government is also of the opinion that the aforesaid activities of the HNLC are detrimental to the sovereignty and integrity of India, and if these are not immediately curbed and controlled, the said

HNLC would regroup and rearm itself, expand its cadres, procure sophisticated weapons, cause loss of lives of civilians and Security Forces, and accelerate its anti-national activities;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), hereinafter referred to as the said Act, the Central Government hereby declares the Hynniewtrep National Liberation Council (HNLC) along with all its factions, wings and front organizations as unlawful association;

The Central Government is of the further opinion that it is necessary to declare the HNLC along with all its factions, wings and front organizations as unlawful associations with immediate effect and accordingly, in exercise of the powers conferred by the proviso to sub-section (3) of Section 3 of the said Act, the Central Government hereby directs that this notification shall, subject to any order that may be made under Section 4 of the said Act, have effect from the date of its publication in the Official Gazette.

[F.No.11011/80/2012-NE-V]
SHAMBHU SINGH, Jt. Secy."

61. It is submitted by the learned Additional Solicitor General that as required by Section 3(4), the aforesaid notification dated 16th November, 2012 has also been published in the daily newspaper circulated in the State of Meghalaya and due service has been effected in terms of the said section on HNLC. Relevant affidavits testifying due

service have been filed. Further action has been taken by the government of Meghalaya in terms of Section 3(4) of the Act by republishing the said notification in the official Gazette of Meghalaya on 16th November, 2012. Section 4(3) requires publication of the Notification in not less than one daily newspaper. In this case, it has been published in three separate newspapers having circulation in the State of Meghalaya, namely "THE SHILLONG TIMES", "U NONGSAIN HIMA" and "MAWPHOR".

62. As regards the compliance of the latter part of Section 3(4) of the Act, which enjoins the Central Government to further serve on such association a copy of the notification by employing at least one of the methods, set down in sub sections (a) to (d) of the said sub section; learned Additional Solicitor General has drawn my attention to a letter dated 21st November, 2012, which has been annexed to the affidavit of Sh. G. Sridharan requesting the Chief Secretary of the Government of Meghalaya to serve HNLC in the manner prescribed under Section 3(4). In response to this, Deputy Commissioners of all the districts

have sent communications pointing out that the said Notification dated 16th November, 2012 was duly pasted on the notice board of their offices. In this context, reference may also be had to Rule 4 of the Unlawful Activities (Prevention) Rules, 1968, that have been framed by the Central Government under Section 21 of the Act. The said Rule states as follows:

"4. Additional modes of service of notification made under section 3 – Without prejudice to the generality of the provisions of sub-section (4) of section 3, all or any of the following modes may also be followed in effecting service of a notification made under sub-section (1) of section 3, namely:-

(a) By making an announcement over the radio from the local or nearest broadcasting station of the All-India Radio, or

(b) By pasting the notification on the notice board of the office of the District Magistrate or the Tehsildar at the headquarters of the district or the tehsil, as the case may be, in which the principal office of the association affected is situated."

63. Thus, pasting of Notification on the notice boards in the office of the concerned Deputy Commissioners of all the districts signifies proper service under the provisions of the Act and the Rules made thereunder. I am, therefore,

satisfied that the Notification dated 16th November, **2012** has been properly served and the conditions mentioned in Section 3(4) of the Act are satisfied in this behalf.

64. Under the old Act of 1967, the expression, “unlawful activity” had been defined in Section 2(f). The new Section 2(o) has been introduced by an amendment in the year 2004. Although we are concerned with the later, amended Act, however we cannot lose sight of the fact that earlier the definition of “unlawful activity” in the 1967 Act had only two clauses; but in the current Act, sub-clause (iii) has also been added, which now provides a further ground defining unlawful activity as follows; “(iii) which causes or is intended to cause disaffection against India”. Furthermore, the aforesaid clauses under Section 2(o) of the old Act were conjunctive but after the amendment, these clauses are disjunctive in nature. This is demonstrated in the use of the expression “or” at the end of every clause in the current Act; or to put it slightly differently, the scope of the expression, “unlawful activity” in terms of the Unlawful Activities Prevention Act, 1967 has, in fact, been widened by the

amendment carried out in the year 2004. This very argument was raised during the final arguments and was accepted by the Unlawful Activities Prevention Tribunal, presided over by Hon'ble Mr. Justice Swatantra Kumar in respect of the notification of the Home Ministry dated 16.11.2004 wherein it was observed as follows:

"The definition of unlawful activities under Section 2(o) of the Act was amended so as to incorporate (i), (ii) and (iii) and by addition of the expression 'or'. The amendment of this definition clause has significantly changed the scope of the expression 'unlawful activity'. In the pre-amended definition clause, both the ingredients of (i) and (ii) ought to be satisfied, while under the amended clause, in the event either of the three clauses mentioned under Sub-section (o) of Section 2 are satisfied, it would be an 'unlawful activity'. "Any individual association" "which causes or is intended to cause disaffection against India", would be an "Individual" or an "association" involved in an unlawful activity. "Disaffection" has been explained to be including disloyalty and all feelings of enmity. It is the species of disaffection and people are disaffected to the Government. In simple words, it is a manner of challenging the administration by unlawful means. In giving this expression a wide meaning, a Bench of Calcutta High Court in the case of "Saptaha" a Bengali B-Weekly Newspaper and in the matter of **Benoy Kumar Chattopadhyaya**, AIR 1950 Calcutta 445 held as under:-

"The word 'disaffection' signifies political alienation or discontent, that is to say, a feeling of disloyalty to the existing Government, which

tends to a disposition not to obey, but to resist and subvert the Government."

Section 2(p) defines 'unlawful association' as any association "which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity". The Legislature intended to give this defining sub-section a wider meaning and interpretation, that is the precise reason as to why words like "encourages", "aids" have been used in the Section. Even if an association has for its objective any activity which is punishable under Section 153A or 153B of the Indian Penal Code, or the members of which undertake such activity, would be an 'unlawful association'. There is no occasion for the Tribunal to give it a restricted interpretation/meaning. In any case, the afore-noticed activities of these two associations ANVC and HNLC are an open challenge to the sovereign power of the State, their unlawful activities including causing fear psychosis in the minds of the public, by extortion of money, abduction, murder and attack on the security forces are the clear indications of the attempt on the part of these associations to hinder the State Administration by unlawful and illegal means. These associations are actually still involved in procuring of weapons, infringing the borders of the Union of India, keeping their contracts with other banned organizations and unlawful associations in and outside the territorial limits of Indian Territory.

In the case of **Union of India and Ors. vs. Sukumar Sengupta and Ors.** 1990 (supp) Supreme Court Cases 545 sovereignty was described by the Court as a quality of right, a bundle of rights and that it depends on the facts and circumstances of each case. The complexities of modern developed societies need amicable and peaceful settlement of national and international disputes and the expression sovereignty and independence had

to be modified, keeping in view the developments. It being a bundle of rights, obligation of the State to protect members of its Society is placed on a higher pedestal. Casual principles of settled law thus, require the interpretation of unlawful assemblies and unlawful activities in that direction. If the members of these unlawful associations are terrorising the common man on the road and create a law and order problem for normal administration by the different State organs with the aims aforesaid, would not only be intending but actually disrupting the sovereignty and territorial integrity of India.

Explaining the importance of the concept of sovereignty, the Supreme Court in the case of **Synthetics and Chemicals Ltd. and Ors. Vs. State of U.P. and Ors.**, (1990) 1 Supreme Court Cases 109, held that "It is the exercise of sovereign power which gives the State sufficient authority to enact any law subject to the limitations of the Constitution to discharge its functions. The Indian State, between the Centre and the States, has sovereign power. The sovereign power is plenary and inherent in every sovereign State to do all things which promote the health, peace, morals, education and good order of the people. This power of sovereignty is, however, subject to Constitutional Limitations."

The above enunciated principles of law indicate that the expression "sovereignty" is to be given a meaning which is understood in common parlance and is certainly an expression of wide dimensions. The object of power of sovereignty is ultimately for the welfare of the people of the State. So to perform its functions of that kind without disruption, unlawful impediments and threat from an association or a group of persons would infringe the very basic fundamentals of democratic system."

65. It may, thus, be noticed that this is ~~not the first~~ time or the second time, the declaration banning HNLC is going to be confirmed. It is happening since 2000. Their activities are going on unabated for the last 12 years. Originally, the declaration was with regard to two organizations i.e. ANVC and HNLC. Subsequently, after six years, it was found that the ANVC had actually joined the mainstream. They are no longer an unlawful association. Keeping in view the unlawful activities of HNLC, the Central Government is of the opinion that now only HNLC should be declared unlawful. This is warranted by the unlawful activities which they continue to indulge in.

66. The privilege claimed in terms of paragraphs 4, 5 and 6 of the affidavit dated 30th March, 2013 filed by the Central Government from disclosure of the contents of the sealed cover which was placed before this Tribunal on 3rd April, 2013, is granted. The sealed cover, which has been opened by this Tribunal for its consideration, shall be resealed and returned to the Central Government.

67. The State of Meghalaya and the Central Government have brought on record overwhelming evidence to show that the aims and objects and the activities of HNLC are 'unlawful activity' as defined in sub-Section (o) of Section 2 of the Act and are intended to cause a threat to the sovereignty of the country by seeking secession of Meghalaya from the Union of India by carving out an independent state. The activities of the HNLC are therefore a direct threat to the sovereignty and integrity of India and, it is imperative, that the unlawful activities be banned in order to prevent the HNLC from continuing its disruptive activities.

68. The evidence has clearly established the validity of the grounds on which the Notification dated 16th November, 2012 banning HNLC is issued. It is proved on record that HNLC has (i) openly declared as its objective the secession of the State of Meghalaya from the Indian Union; (ii) been employing and engaging in armed means to achieve their objective; (iii) been indulging in acts of intimidation, extortion and looting of civilian population for

collection of funds for their organization; (iv) ~~been~~ maintaining links with other insurgent groups of ~~the~~ North Eastern region for carrying out acts of extortion and intimidation; and (v) been maintaining camps in neighbouring country for the purpose of sanctuary and training of their cadres, which is detrimental to the sovereignty and integrity of India.

69. Thus, in view of the convincing evidence brought on record, I am of the considered view that sufficient cause exists for declaring the HNLC as an unlawful association and accordingly, the Notification dated 16th November, 2012 issued by the Central Government under sub-Section (1) of Section 3 of the Act dated 16.11.2012 banning HNLC for a period of two years with effect from 16.11.2012 is liable to be confirmed under sub-Section (3) of Section 4 of the Act, ordered accordingly.

JUSTICE SUDERSHAN KUMAR MISRA.
Presiding Officer
Unlawful Activities (Prevention) Tribunal